



Trump Orders Federal Agencies to Reconsider Energy and Climate Change Initiatives

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President Trump signed an executive order on March 28, 2017 that will have a significant impact on existing energy and environmental policies and regulations. Entitled “Promoting Energy Independence and Economic Growth,” the executive order requires federal agencies to review such policies and regulations and identify those that encumber energy production, constrain economic growth and prevent job creation. Agencies are directed to suspend, revise or rescind policies and regulations that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public and to comply with applicable laws.

The reviews mandated by the executive order will apply to all existing regulations, orders, guidance documents, policies and other agency actions. In conducting the reviews, agencies are instructed to pay particular attention to initiatives that burden the use of oil, natural gas, coal and nuclear energy. Timeframes for performing the reviews are tight. The head of each agency must develop and submit a plan to carry out the reviews within 45 days of the date of the executive order. Within 120 days of the date of the executive order, the head of each agency must submit a draft final report detailing the agency’s recommendations. The reports must then be finalized within 180 days of the date of the executive order.

The executive order specifically targets certain rules and guidance for review, including those associated with EPA’s Clean Power Plan. In addition, the Interagency Working Group on Social Cost of Greenhouse Gases (“IWG”) is disbanded, and documents issued by the IWG are withdrawn as no longer representative of governmental policy. Moratoria on coal leasing activities are also lifted.

In addition to requiring agencies to review initiatives that burden development or use of energy resources, the executive order revokes the following Presidential actions taken under the Obama administration:

1. Executive Order 13653 of November 1, 2013 (Preparing the United States for the Impacts of Climate Change);
2. Presidential Memorandum of June 25, 2013 (Power Sector Carbon Pollution Standards);
3. Presidential Memorandum of November 3, 2015 (Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment); and
4. Presidential Memorandum of September 21, 2016 (Climate Change and National Security).

The executive order also rescinds two Executive Office reports dealing with climate action plans and a final guidance dealing with greenhouse gas emissions and the effects of climate change.

Complying with the executive order will present a challenge to those agencies that have policies and regulations requiring review. Besides determining whether relevant initiatives potentially burden the development or use of domestically produced energy resources, the executive order requires an analysis of whether the initiatives comply with underlying law and are of greater benefit than cost. Applying these criteria to the numerous initiatives that will be reviewed is certain to result in strong opposition and, in some instances, litigation by environmental groups and others. We expect that the impact of the executive order on energy production, greenhouse gas regulation and climate change regulation will be significant and hotly litigated for years to come.

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